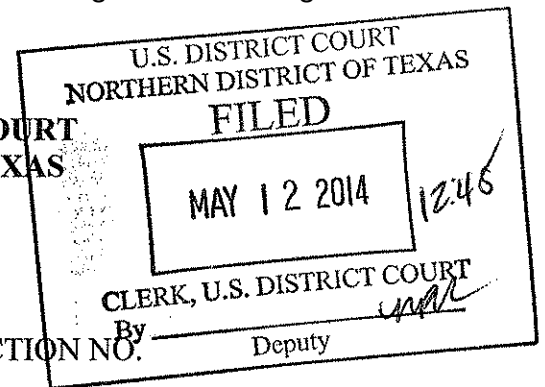


ORIGINAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION



ANDREW GONZALEZ

Plaintiff.

v.

DIVERSIFIED
CONSULTANTS, INC.

Defendant.

CIVIL ACTION NO.

4-14CV-332-0

TRIAL BY JURY DEMANDED

ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiff Andrew Gonzalez, complains of Diversified Consultants, Inc. Defendant, and for cause of action would respectfully show as follows:

NATURE OF ACTION

1. This is an action for damages brought by individual, Plaintiff Andrew Gonzalez against Defendant Diversified Consultants Incorporated, for violations of the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227(b)(1)(A), 47 U.S.C. § 227(b)(1)(A)(iii).
2. Plaintiff contends that the Defendant has violated such laws by calling Plaintiffs cellular telephone with an automatic telephone dialing system without express written consent.

JURISDICTION AND VENUE

3. Jurisdiction of this Court arises under 47 U.S.C. §227(f)(2).
4. This Court has jurisdiction over Defendant pursuant to 28 U.S.C. §1391b because Defendant engages in business within this state, to wit debt collection.
5. Venue is proper pursuant to 28 U.S.C. §1391b and 47 U.S.C. §227(f)(4) .
6. Venue in the Northern District of Texas, Fort Worth Division is proper in that the Plaintiff resides in State of Texas, Tarrant County, City of Fort Worth, the Defendant transacts business here, and the conduct complained of occurred here.
7. All conditions precedent to the bringing of this action, have been performed.

PARTIES

8. The Plaintiff in this lawsuit is Andrew Gonzalez, a natural person and a citizen of Tarrant County, Texas.
9. Defendant in this lawsuit is Diversified Consultants, Inc. (herein after "DIVERSIFIED") a debt collection company with principal office at 10550 Deerwood Park Blvd, Building #309, Jacksonville, FL 32256.
10. DIVERSIFIED is registered with the Texas Secretary of State pursuant to Tex. Fin. Code § 392.101 to engage in debt collection activities in Texas.
11. DIVERSIFIED may be served with process by serving its registered agent for service of process: John Crawford, 1200 Riverplace Boulevard, Suite 800, Jacksonville, FL 32207.
12. DIVERSIFIED is a "debt collector" as defined by 15 U.S.C. § 1692a(6).
13. DIVERSIFIED is in the business of collecting consumer debts using the mails and telephone and regularly collects, or attempts to collect, consumer debts owed, or alleged to be owed, to another person.

FACTUAL ALLEGATIONS

14. On **April 11, 2014 at 03:55 p.m.**, Defendant DIVERSIFIED called the Plaintiff's wireless cell phone from telephone number (682) 888-0444. **(Exhibit A)**
15. Refer to ¶14; Plaintiff answered the telephone call, the representative for Defendant DIVERSIFIED asked to speak to someone other than Plaintiff.
16. On **April 12, 2014 at 08:29 a.m.**, Defendant DIVERSIFIED called the Plaintiff's wireless cell phone from telephone number (682) 888-0477. **(Exhibit B)**
17. On **April 12, 2014 at 02:40 p.m.**, Defendant DIVERSIFIED called the Plaintiff's wireless cell phone from telephone number (682) 888-0477. **(Exhibit C)**
18. On **April 14, 2014 at 03:05 p.m.**, Defendant DIVERSIFIED called the Plaintiff's wireless cell phone from telephone number (682) 888-0444. **(Exhibit D)**
19. On **April 15, 2014 at 05:13 p.m.**, Defendant DIVERSIFIED called the Plaintiff's wireless cell phone from telephone number (682) 888-0477. **(Exhibit E)**
20. On **April 15, 2014 at 07:38 p.m.**, Defendant DIVERSIFIED called the Plaintiff's wireless cell phone from telephone number (682) 888-0477. **(Exhibit F)**
21. On **April 16, 2014 at 12:37 p.m.**, Defendant DIVERSIFIED called the Plaintiff's wireless cell phone from telephone number (682) 888-0408. **(Exhibit G)**
22. In each telephone communication in question here, Defendant DIVERSIFIED used equipment with automatic telephone dialing system to dial Plaintiff's wireless cellular phone in an attempt to collect on a consumer debt for someone other than Plaintiff.
23. In each telephone communication in question here, Defendant DIVERSIFIED used a telephone dialing system that has the **capacity** to automatically dial Plaintiff's wireless

cellular phone in an attempt to collect on a consumer debt for someone other than Plaintiff. **(Emphasis Added)**

24. Plaintiff visited Defendant DIVERSIFIED website; **www.dcicollect.com/dci-technology.html**, the website states that DCI uses **“LiveVox for its dialing needs. LiveVox is the leading provider of predictive dialing solutions to the collection industry.”** **(Exhibit H)**
25. Plaintiff also visited the Public Utility Commission of Texas website; **http://www.puc.texas.gov/industry/communications/directories/adad/search_adad.aspx**; and discovered that Defendant Diversified has a permit to use an Automatic Dial Announcing Device (ADAD), which is a mechanism that sends recorded messages. **(Exhibit I)**
26. According to the Public Utility Commission of Texas website, **“Any...company wishing to make an unsolicited call via an ADAD machine or software, in which a recorded message is played, should file for an ADAD permit application...”**
27. At no time has the Plaintiff given his express consent, written or otherwise, to Defendant DIVERSIFIED to call his wireless cellular telephone.
28. Plaintiff has no prior or present established relationship with Defendant DIVERSIFIED.
29. Plaintiff has no contractual obligation to pay Defendant DIVERSIFIED any alleged consumer debt.
30. Refer to ¶14 and ¶16 through ¶21, the communications in question here are all related to Defendant DIVERSIFIED attempts to collect on a consumer debt for someone other than Plaintiff.

31. On April 17, 2014 Plaintiff sent a letter via United States Postal Service Certified Mail informing Defendant DIVERSIFIED said actions were a violation of the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227(b)(1)(A) and 47 U.S.C. § 227(b)(1)(A)(iii). This was in an effort to amicably resolve the matter prior to litigation.
32. All violations complained of herein occurred within the statute of limitations of the applicable federal statutes.

COUNT I

VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT 47 U.S.C. §227(b)(1)(A) BY DEFENDANT DIVERSIFIED CONSULTANTS, INC.

33. Paragraphs 1 through 32 are re-alleged as though fully set forth herein.
34. Plaintiff and Defendant DIVERSIFIED do not have an established business relationship within the meaning of 47 U.S.C. §227(a)(2).
35. Defendant DIVERSIFIED called Plaintiff's cellular telephone using an "automatic telephone dialing system" within the meaning of 47 U.S.C. §227(a)(1).
36. In each telephone communication referenced in ¶14 and ¶16 through ¶18, Defendant DIVERSIFIED has demonstrated willful or knowing non-compliance with 47 U.S.C. § 227 (b)(1)(A) by using equipment with automatic telephone dialing system or used a telephone dialing system that has the **capacity** to automatically call the Plaintiff's cellular telephone number, which is assigned to a cellular telephone service **with no** prior express consent and for no emergency purpose.
37. 47 U.S.C. §227(b)(1)(A) which states in part;
- (b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—
- (1) PROHIBITIONS.—It shall be **unlawful for any person** within the United States, or any person outside the United States if the recipient is within the United States—

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated the Telephone Consumer Protection Act and/or admission from the Defendant(s) that they violated the Telephone Consumer Protection Act;
- b) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C §227(b)(3)(B); which states in part: an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater.
- c) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C §227(b)(3)(C); which states in part: If the Court finds that the Defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the Court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 (three) times the amount available under subparagraph (B) of this paragraph.
- d) Awarding such other and further relief as the Court may deem just and proper.

COUNT II

**VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT 47 U.S.C.
§227(b)(1)(A)(iii) BY DEFENDANT DIVERSIFIED CONSULTANTS, INC.**

38. Plaintiff alleges and incorporates the information in paragraphs 1 through 37.

39. In each telephone communication referenced in ¶14 and ¶16 through ¶18, Defendant DIVERSIFIED has demonstrated willful or knowing non-compliance with 47 U.S.C. §227(b)(1)(A)(iii) by using equipment with automatic telephone dialing system or used a telephone dialing system that has the **capacity** to automatically call the Plaintiff's number, which is **assigned to a cellular telephone service**.

40. In each telephone communication referenced in ¶14 and ¶16 through ¶18, Defendant DIVERSIFIED has demonstrated willful or knowing non-compliance with 47 U.S.C. §227(b)(1)(A)(iii) by using equipment with automatic telephone dialing system or used a telephone dialing system that has the **capacity** to automatically call the Plaintiff's number no less than seven (7) times, which the **Plaintiff was charged for the telephone calls**.

41. 47 U.S.C. §227(b)(1)(A)(iii) which states in part;

(b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—

(1) PROHIBITIONS.—It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

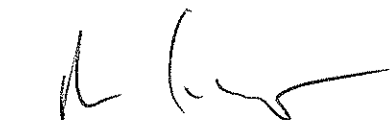
- e) Adjudging that Defendant violated the Telephone Consumer Protection Act and/or admission from the Defendant(s) that they violated the Telephone Consumer Protection Act;
- f) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C §227(b)(3)(B); which states in part: an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater.
- g) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C §227(b)(3)(C); which states in part: If the Court finds that the Defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the Court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 (three) times the amount available under subparagraph (B) of this paragraph.
- h) Awarding such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

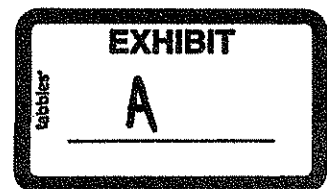
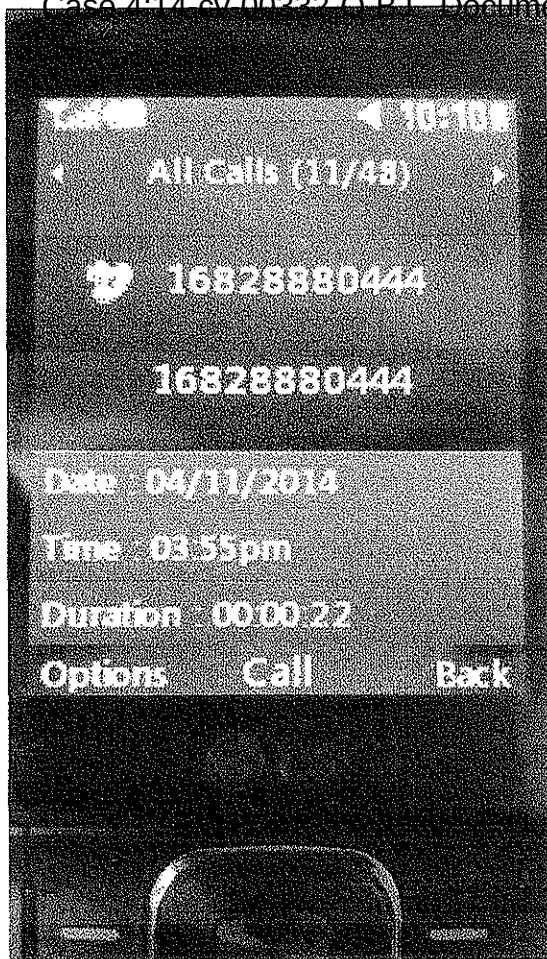
Plaintiff is entitled to and hereby demands trial by jury.

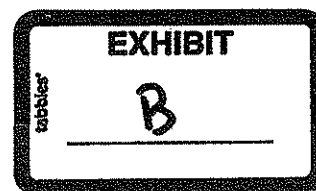
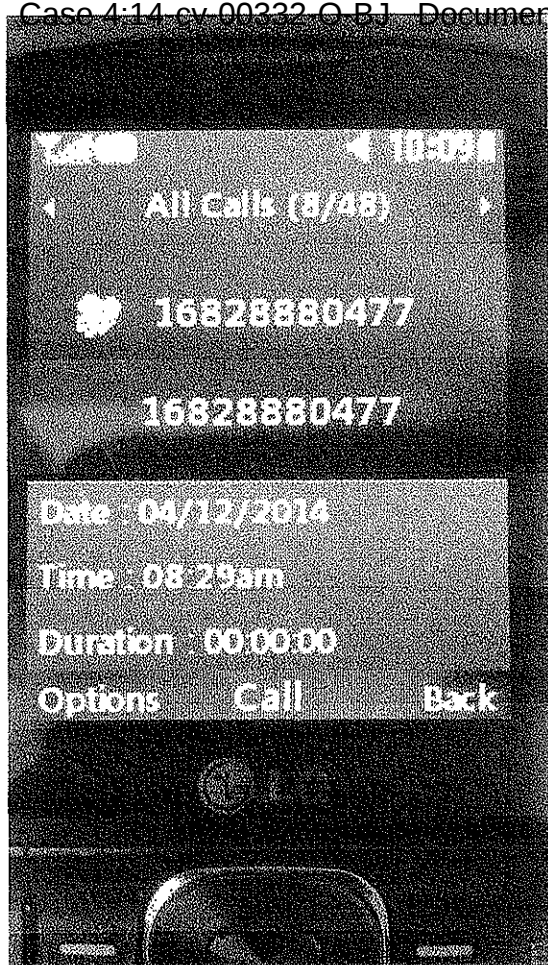
Dated: May 09, 2014

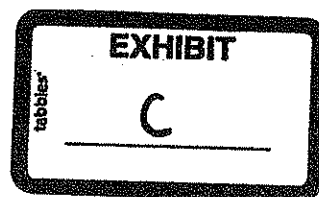
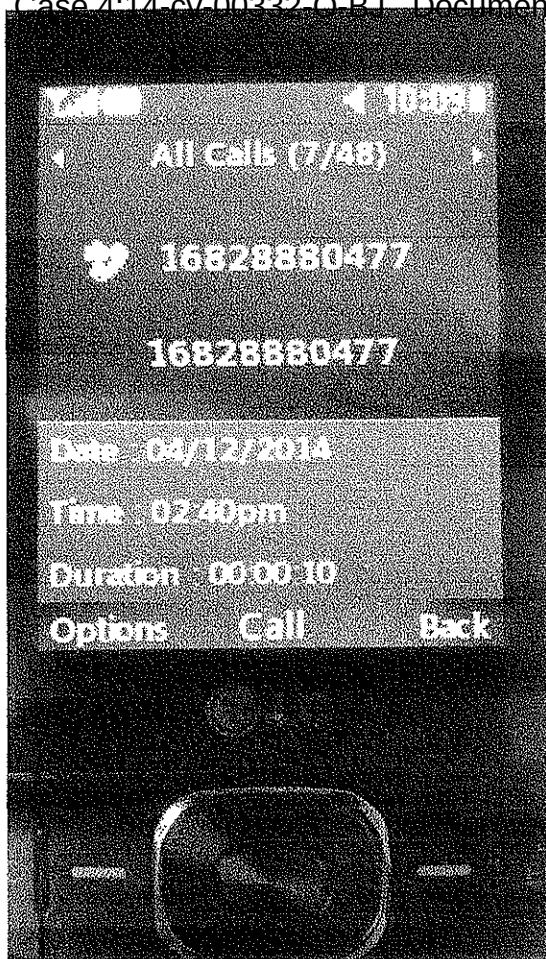
Respectfully Submitted,

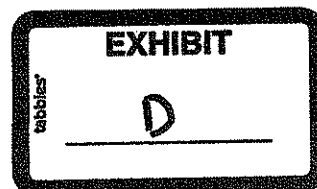
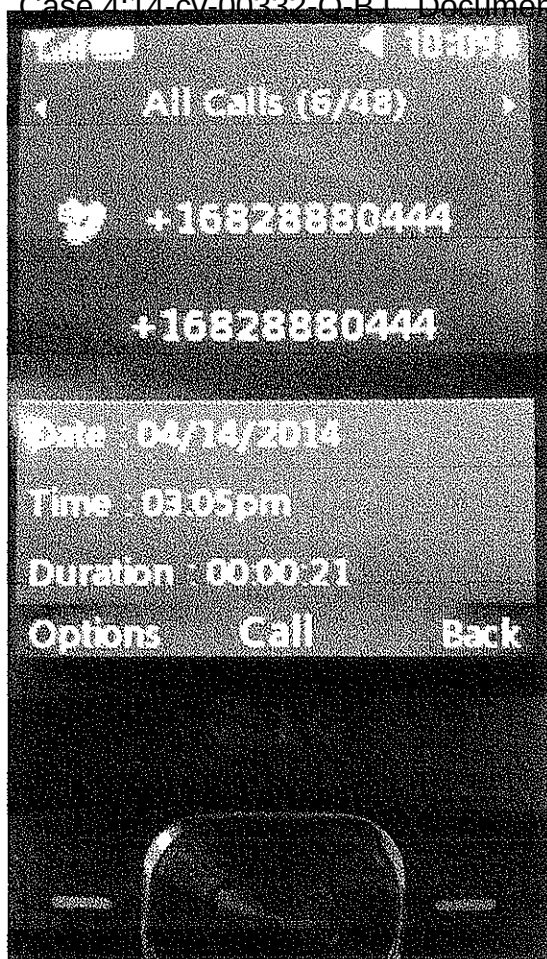


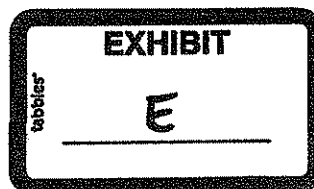
Andrew Gonzalez
416 Chatamridge Court
Fort Worth, TX 76052
(817) 975-5655
gonandrew@yahoo.com

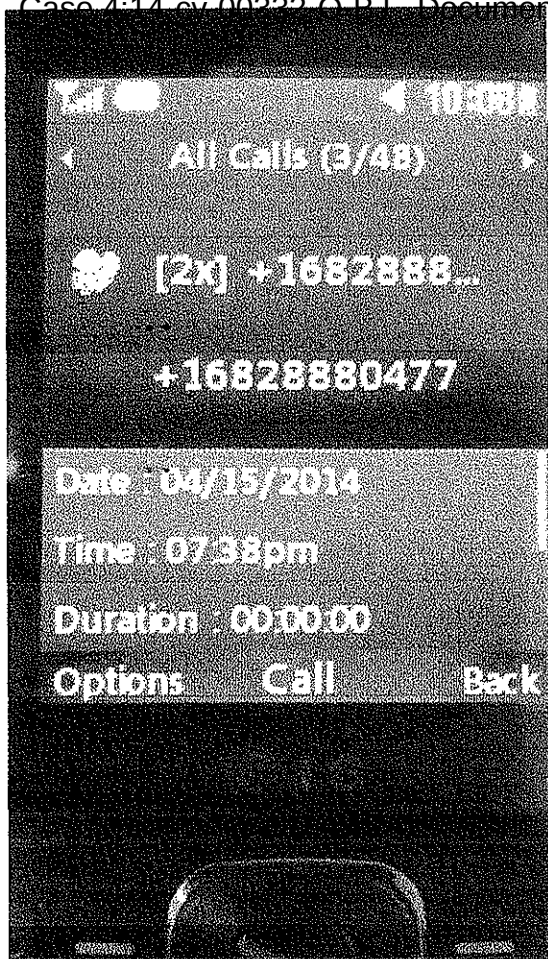


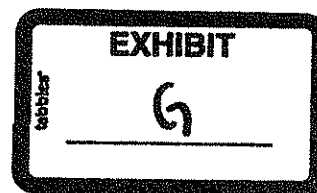
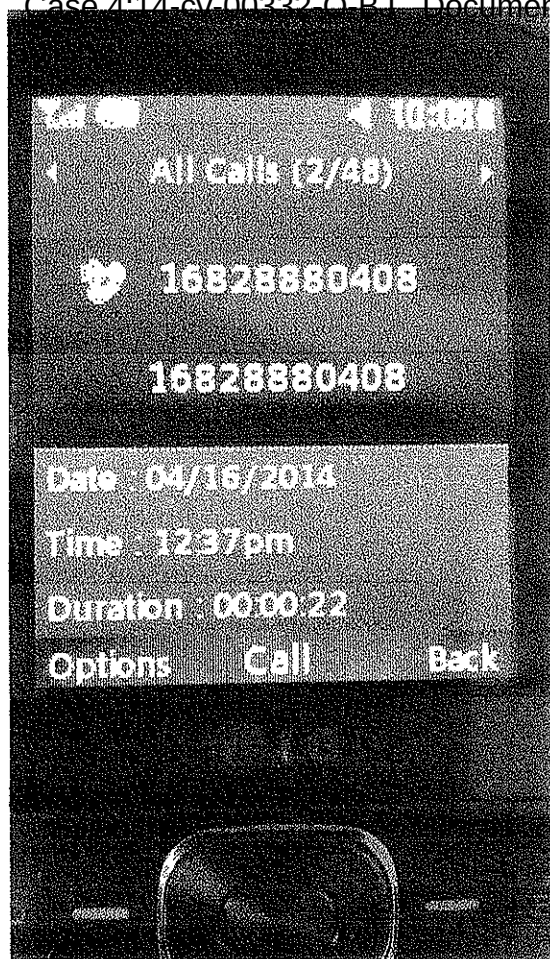














Public Utility Commission of Texas

ADAD Report

DIVERSIFIED CONSULTANTS INC

Permit No: 070122

Type: ADAD

Permit Approved Date: 3/28/2007

Date Last Renewed: 3/28/2013

DBA Names

No DBA Records

Contact Information

Company / Physical (Mailing Address)

DIVERSIFIED CONSULTANTS INC
MAVIS PYE
COMPLIANCE MANAGER
10550 DEERWOOD PARK BLVD
SUITE 309
JACKSONVILLE, FL 32256
Web: www.dccollect.com
Email: info@dccollect.com
Phone: 904-247-5500
Toll Free: 800-771-5361
Fax: 904-247-0660

ADAD Physical Address

DIVERSIFIED CONSULTANTS INC
MAVIS PYE
10550 DEERWOOD PARK BLVD
SUITE 309
JACKSONVILLE, FL 32256
Email: mavis@dccollect.com
Phone: 904-694-3141
Toll Free: 800-771-5361
Fax: 904-247-0660

ADAD Physical Address

DIVERSIFIED CONSULTANTS INC
MAVIS PYE
10550 DEERWOOD PARK BLVD
SUITE 309
JACKSONVILLE, FL 32256
Email: mavis@dccollect.com
Phone: 904-694-3141
Toll Free: 800-771-5361
Fax: 904-247-0660

Mailing / PO Box

DIVERSIFIED CONSULTANTS, INC
MAVIS PYE
COMPLIANCE MANAGER
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Email: info@dccollect.com
Phone: 904-247-5500
Toll Free: 800-771-5361
Fax: 904-247-0660

Reports

2014

ADAD Annual Report
Submitted: 3/3/2014
Approved: 3/3/2014

2012

ADAD Annual Report
Submitted: 11/26/2012
Approved: 3/19/2013

2010

ADAD Annual Report
Submitted: 11/10/2010
Approved: 11/18/2010

2013

ADAD Annual Report
Submitted: 4/11/2013
Approved: 4/16/2013

2011

ADAD Annual Report
Submitted: 11/1/2011
Approved: 12/12/2011

2009

ADAD Annual Report
Submitted: 11/9/2009
Approved: 11/18/2009



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State-of-the-art innovation

We utilize software provided by Latitude Software, Inc. called Latitude. Latitude keeps track of your company's entire work flow -- from downloading new accounts to printing checks for clients. Collection, administrative and management functions can be customized to enhance your office work flow.

In addition, Diversified Consultants, Inc. partners with LiveVox for its dialing needs. LiveVox is the leading provider of predictive dialing solutions to the collection industry. LiveVox offers integrated solutions with intelligent inbound skills based routing. The newly designed state-of-the-art user interface contains fully customizable detailed real-time status of agents, campaigns and phone lines into one view. Using this powerful administrative tool enhances the overall speed of expediting our core functions.

Payment Center

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Help: [Schedule](#) [Account](#) [Technology](#) [Help](#)

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EXHIBIT

I

20140812

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Andrew Gonzalez

DEFENDANTS

Diversified Consultants, Inc.

(b) County of Residence of First Listed Plaintiff Tarrant

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Duval

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

4-14CV-332-0**II. BASIS OF JURISDICTION**

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER/STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

1. 47 U.S.C. § 227(b)(1)(A) and 47 U.S.C. § 227(b)(1)(A)(iii).

Brief description of cause:

Violations of the Telephone Consumer Protection Act

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

PENDING OR CLOSED:

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

05/09/2014

FOR OFFICE USE ONLY

RECEIPT

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

RW021826 \$400

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